

STATE PROPERTIES COMMITTEE MEETING MINUTES

OCTOBER 22, 2013

The meeting of the State Properties Committee was called to order at 10:02 a.m. by Chairman Ronald N. Renaud. Attendance of the members was taken by roll call and the following members made their presence known: Robert K. Griffith representing the Rhode Island Department of Administration; Susan E. Urso and Richard Woolley representing the Rhode Island Department of Attorney General; and Christopher Feisthamel representing the Rhode Island Office of the General Treasurer, Ex-Officio Member. Others in attendance were Kelly Carpenter from the State of Rhode Island Senate Fiscal Office; Deborah White and Kevin Nelson from the Rhode Island Department of Administration; Christopher Cotta from the Rhode Island Department of Attorney General; Terri Bisson and Erin Laffey from the Rhode Island Department of Environmental Management; Paul Carcieri, Robert B. Jackson and Colleen Kerr from the Rhode Island Department of Transportation; Kate Hardin from the Rhode Island Department of Behavioral Healthcare, Developmental Disabilities and Hospitals; Paul Kochanek from Providence WaterFire; and Steven Peterson from the Town of Johnston.

Chairman Renaud stated for the record that the State Properties Committee did have a quorum present.

A motion to approve the minutes from the State Properties Meeting held on September 10, 2013 was made by Mr. Griffith, subject to the

corrections being made, as requested. Said motion was seconded by Ms. Urso.

ITEM A- Department of Administration - A request was made for approval of and signatures on a License Agreement, by and between the Department of Administration and Waterfire Providence for use of the State House and Station Park to host the Waterfire Salute to Veterans Event on Saturday, November 9, 2013. Ms. White explained that an estimated 30,000 people are expected to attend the event as a whole; however, on sight, it is expected that 3,000 to 4,000 people will be in attendance at any given time. Ms. White noted that there will be performances by both the Army and Navy Bands. Mr. Kochanek noted that hopefully three additional bands will be confirmed for this event. The bands will perform from 5:00 p.m. until 10:00 p.m. Chair Renaud asked if the bands will require stages/tents. Mr. Kochanek stated that a 20' X 30' stage will be erected for the bands' performances. As to the necessity of tents, that decision has not been made as of yet. Chair Renaud asked if the organization has been apprised of all policies and procedures associated with the use of Station Park. Ms. White indicated that all policies and procedures have been explained and discussed at length. Additionally, WaterFire Providence has toured the grounds and submitted a schematic of the event. Ms. White indicated that the Division of Facilities Management is confident that Waterfire Providence understands and will fully comply with all policies and procedures as explained. Chair Renaud asked if the Capitol Police and the Providence Police Department have been notified of this event. Mr. Kochanek indicated that the

Providence Police Department has been notified. Mr. Feisthamel asked if the Amtrak Police should also be notified as Station Park will be utilized as part of this event. Ms. White indicated that the Amtrak Police are notified in accordance with the Division of Facilities' standard policies and procedures. Mr. Griffith asked if alcoholic beverages will be served/sold at this event. Mr. Kochanek stated that no alcohol will be served or sold at Station Park. He stated that alcohol will be served in the Rotunda Room of the State House; however, this portion of the event is "by invitation only." Mr. Griffith asked if vendors will be selling products at this event. Ms. White stated that no vendors are affiliated with this event. Mr. Griffith noted that there is no schematic concerning use of the Rotunda Room included in the submission package. Chair Renaud stated that perhaps this matter should be tabled with regard to use of the Rotunda Room in order to give the Committee an opportunity to receive and review more information concerning this portion of the event. Chair Renaud indicated that the Committee could certainly vote relative to the WaterFire/Station Park portion of the event. A motion to approve, as to the WaterFire portion of the event, was made by Mr. Griffith and seconded by Ms. Urso.

Passed Unanimously

Chairman Renaud stated that the State Properties Committee will be happy to consider use of the State House's Rotunda Room for this event at its November 5, 2013 meeting.

ITEM B - Department of Attorney General - A request was made for approval of and signatures on a Lease Agreement, by and between

Walter L. Bronhard Real Estate and the Department of Attorney General for eight (8) employee parking spaces located at 296 Benefit Street in the City of Providence. Mr. Cotta explained that the Department believes that this request and the following request should be the last in a series of requests to secure safe and secure parking for the employees of the Department of Attorney General. Chair Renaud indicated that the Department's need for secure and safe parking for its employees has been well documented in previous meetings. A motion to approve was made by Mr. Griffith and seconded by Ms. Urso

Passed Unanimously

ITEM C - Department of Attorney General - A request for approval of and signatures on a Lease Agreement, by and between 400 South Main Street Development, LLC and the Department of Attorney General for fifteen (15) employee parking spaces located at One Ship Street in the City of Providence. A motion to approve was made by Mr. Griffith and seconded by Ms. Urso

Passed Unanimously

ITEM D - Department of Behavioral Healthcare, Developmental Disabilities and Hospitals - A request was made for approval to sell 51,555 square feet of property located on Bishop Hill Road in the Town of Johnston; designated as Plat 45; Lot 435. Ms. Hardin explained that the Department is seeking conceptual approval to convey the subject property as it is her understanding that final approval can not be granted unless an appraisal of the property has been conducted within the last six (6) months. Ms. Hardin noted that

the State Properties Committee previously granted a request from the Department for conceptual approval to sell the subject property in 2004. Ms. Hardin explained that as said approval was granted prior to her employment with the Department and because the file lacks any specific information, she is unable to determine what transpired during intervening years regarding the conveyance of said property. Ms. Hardin explained that the Department originally purchased the subject property with the intent to construct a five (5) bedroom residence for use as a group home; however, tests revealed that the land's water table was too high to build on the lot as intended. The test showed that the property could accommodate no more than a three (3) bedroom residence. Mr. Griffith asked about the allocation of the proceeds from the sale of the property. Ms. Hardin indicated that although she can not be completely certain, she believes said proceeds will go to the General Fund. A motion to approve was made by Mr. Griffith and seconded by Ms. Urso.

Under discussion, Mr. Feisthamel questioned how the Department ensures all individuals involved in the sale of property are conflict free. Mr. Woolley stated that everyone involved in such a transaction is obligated to sign a conflict of interest form stating that they have no reasonable likelihood or expectation of appreciable financial gain from said transaction. Chair Renaud reminded the Committee that this is a request for conceptual approval and went on to explain the "conceptual approval" process. Chair Renaud stated that once obtaining conceptual approval, the Department would then advertise a Request for Proposals soliciting bids for the purchase of the

subject property. Ms. Hardin echoed the Chair's interpretation of the conceptual approval process. Ms. Hardin stated that Mr. Peterson, who is present today, has actively sought to purchase the subject property for the past twelve (12) years. Ms. Hardin stated that she has explained to Mr. Peterson that when presenting this matter before the State Properties Committee, the Department could not and would not be advocating on his behalf relative to his longstanding request to purchase the subject property via a sole source sale. At the start of today's meeting, Ms. Rhodes provided the Committee with a summary of events authored by Mr. Peterson, summarizing his experience in seeking to purchase the subject property since 1993. Chair Renaud stated that as there is no correspondence from the Chief Purchasing Officer waiving the Request for Proposals process, the Department is required to advertise a Request for Proposals to solicit bids from any and all parties interested in purchasing the subject property. Mr. Woolley indicated that due to the nature and use of the property it is actually required by statute that the property be offered for sale via a request for proposals. Ms. Hardin indicated that there are a couple of items contained in the Department's file dating back to 2004; one of which is an interoffice memorandum from Ann Lanni, who was the Executive Secretary of the State Properties Committee at that time. Said memorandum states that:

"The State Properties Committee, at its meeting held on Tuesday, December 7, 2004, granted the request of the Department for conceptual approval to convey property on Bishop Hill Road in Johnston. Inherent in the motion, it is noted that this conceptual

approval is not just directed toward interested parties, but probably through a bid process."

Ms. Hardin stated that it is apparent from said memorandum that it has long been the Committee's intent to dispose of this property via a public bid. Mr. Nelson indicated that Statewide Planning reviewed the subject property and recommended that prior to the issuance of a Request for Proposals, that affordable housing be given top priority in terms of the property's future use. However, in the event said recommendation is not feasible, then Statewide Planning would support offering the property for sale via a public bid. Chair Renaud asked whether affordable housing is still a factor at this time. Mr. Nelson replied that Statewide Planning's recommendation remains the same even as part of a Request for Proposals. Ms. Hardin stated that her file contains correspondence from Rhode Island Housing Authority which indicates that the subject property is not suitable for its needs. Mr. Nelson indicated that Rhode Island Housing Authority is only one of several agencies that may have an interest in the subject property for use as affordable housing. As it is Ms. Urso's understanding that municipalities are required to meet a certain percentage of a goal relative to affordable housing; Ms. Urso asked whether the Town of Johnston has met its ten (10 %) percent goal for affordable housing. Ms. Hardin stated that she does know whether the Town of Johnston has met its goal in terms of affordable housing; however, her file includes correspondence from the Town of Johnson indicating that it has no objections to the sale of the subject

property. Mr. Griffith asked when the Department received said correspondence. Ms. Hardin indicated that the letter was received in 2004, when this request initially came before the State Properties Committee. Mr. Griffith stated that as over a decade has past since that correspondence was received, he recommended that the Department once again contact the Town of Johnston to determine whether it has any interest or any objections to the Department's intended sale of the property. Mr. Peterson provided a brief summary of his experience over the years in attempting to purchase the subject property via a sole source sale for the past twelve (12) years. Chair Renaud explained to Mr. Peterson that regardless of what his past experience has been with either the Department and/or the Committee, that unfortunately it is no longer applicable relative to the sale of the subject property. Chair Renaud stated that he has no personal opinion as to what party should be allowed to purchase a particular property, his only objective to ensure that standard procedure is followed and that the best interest of the State of Rhode Island and its residents is protected. Mr. Feisthamel suggested that the Town and the housing authorities be notified that the Department is once again seeking to sell the subject property. Mr. Woolley stated that pursuant to the statute, if the subject property is not going to be used as a group home than the Department must sell the same for fair market value. Chair Renaud recommended that the Town of Johnston be notified of the intended sale. If the Town has no interest or objection to the sale of the property, the Department is then required to offer said property for sale via a public bid. Once all bids

are received, the Department shall review the proposals and determine the successful candidate based upon its standard criterion and return to the State Properties Committee to present and discuss its selection and reasoning for said decision. Ms. Urso asked whether an updated appraisal of the property will be conducted. Ms. Hardin indicated that the Department will have an updated appraisal of the property done. A motion to grant conceptual approval for the sale of the subject property was made by Mr. Griffith, conditioned upon the Town of Johnston's expression of interest or lack thereof relative to this property and subject to an updated appraisal being conducted. Said motion was seconded by Ms. Urso.

Passed Unanimously

ITEM E - Department of Environmental Management - A request was made for approval of and signatures on an Indenture of Lease, by and between the Department of Environmental Management and Edward McGovern for the caretaker's residence located at 260 Arcadia Road in the Village of Hope Valley in Town of Richmond. Ms. Bisson explained that Mr. McGovern is a Senior Forest Ranger with the Department of Environmental Management and has been employed by the Department for over 25 years. Mr. McGovern has served as the caretaker at this location since 1995. Ms. Bisson explained that under the terms and conditions of the Lease Agreement, Mr. McGovern will lease the residence for three (3) years with one (1) option to extend the same for an additional three (3) years. Ms. Bisson noted that Mr. McGovern will pay an annual rental fee of \$6,138.00. Said amount is based upon the most recent Urban HUD rate, minus a twenty (20%)

deduction for surveillance, a fifteen (15%) percent reduction for response and a ten (10%) reduction for nuisance. Ms. Bisson stated that Mr. McGovern is called upon to perform all of the above services on a regular basis. Additionally, Ms. Bisson stated that Mr. McGovern is required to secure and maintain liability insurance coverage together with personal property insurance coverage. Following a detailed discussion regarding the importance of maintaining the care takers' residences as well as any and all real property/assets of the State, a motion to approve was made by Mr. Griffith and seconded by Ms. Urso.

Passed Unanimously

ITEM F - Department of Transportation – A request was made to submit additional information regarding the conveyance of 0.27 acres of land located adjacent to 650 Succatash Road in the Town of South Kingstown to Lockwood Commercial, LLC. Mr. Jackson explained that the Department previously appeared before the State Properties Committee seeking conceptual approval to dispose of the above-referenced property on July 16, 2013, the Committee granted the Department's request, subject to the following conditions:

"The Department of Transportation commissioning an "independent" appraisal of not only this parcel, but all State-owned properties located in this area, along and on either side of Succatash Road and subject to the Department conducting an analysis to determine fair and equitable proposals for the payment of retroactive compensation due and owing to the State of Rhode Island for the past and existing encroachments. Further, Mr. Woolley stipulated that said conceptual

approval is granted conditional upon the comprehensive, independent appraisal determining whether any State-owned property presently considered by the Department to be an "uneconomical remnant" parcel of land located along Succotash Road meets or has the potential to meet the requirements of a "stand alone/buildable" parcel, inclusive of the subject property being presented before the Committee today."

Mr. Jackson stated that the Department's Land Sales Committee approved the sale of the subject property on December 17, 2012. Mr. Jackson further indicated that an appraisal of the subject property dated September 27, 2013, established the its value at \$6.50 per square foot or a total purchase price of \$70,000.00. The property sale will cure an encroachment and expand the parking area of the adjacent marina. The property shall be conveyed for "surface use only." Mr. Carcieri reiterated that the Committee granted the Department's request for conceptual approval provided the subject property did not meet the Town's requirements as a "stand alone parcel/buildable lot.' Mr. Carcieri indicated that the appraisal of September 27, 2013, along with the Town of South Kingstown Zoning requirements confirm that the subject property does not meet the specification in order to be deemed a buildable lot. Further, Mr. Carcieri stated that relative to the issue of retroactive rent for the applicant's encroachment upon State-owned property, Mr. Carcieri provided the Committee with copies of the Department's procedures regarding encroachments for its review. In accordance with the

Division of Property Management Procedural Manual, which has the approval of the Federal Highway Administration, the Department declares an encroachment upon a field inspection of a particular property. The provisions contained therein set forth the procedures followed by the Department when an encroachment is discovered. Mr. Carcieri stated that in effect, from the Department's prospective, the encroachment is realized upon its date of verification in the field. In this particular case, the verification date is August of 2012. Mr. Carcieri acknowledges that the Department and Committee have previously discussed the presence of encroachments prior to their discovery via a field inspection. However, Mr. Carcieri wants to let the Committee know the Department's rational in determining an encroachment and what steps are taken to cure an encroachment. Once an encroachment is discovered, the Department immediately forwards a cease and desist notification to the encroaching party. In the event, said notice is met with resistance, the Department refers the matter to legal counsel. Mr. Carcieri indicated that the Department is currently involved in negotiation with other encroaching parties in the vicinity for example Captain Jack's Restaurant. Mr. Carcieri assured the Committee that discussions are ongoing as well as the exchange of written correspondence between the legal representatives and these matter are moving toward resolution. However, Mr. Carcieri noted that the greater part of today's presentation concerns the directive of the State Properties Committee at the meeting of July 16, 2013. Mr. Carcieri explained that the committee instructed the Department to commission an independent

appraisal firm to evaluate the subject property and to establish its value. While investigating the feasibility of the Committee's request, the Department was informed by the Federal Highway Administration ("Administration") that it will not participate in the cost associated with fee appraisals. The Administration's position is that as the Department has competent, certified appraisers on staff being compensated to appraise public property and therefore sees no logical reason to expend resources to obtain fee appraisals. Mr. Carcieri stated that as much of the Department's land is federally acquired and many of its employees are ninety (90%) percent federally underwritten, the Administration has a strong say in all of the Department's decisions. When confronted with the Administration's position, the Department had to make the difficult decisions whether or not to expend State resources on a fee appraisal. Mr. Carcieri explained that the Department's determination was that a \$70,000.00 parcel of land did not justify that expenditure and that could set a potentially flawed precedent for future appraisals. Mr. Carcieri stated that before the Committee today is an updated in-house appraisal, which sets the value of the property at \$70,000.00. Mr. Carcieri explained that this figure is a compromise between the income approach value of \$64,000.00 and the comparable sales approach value of \$75,000.00. Chair Renaud suggested that the Department approach the applicant and advise him that if he wishes to purchase the property then he will have to incur the cost of an independent appraisal of the property. A detailed discussion ensued regarding the expense of a fee appraisal

and the ongoing encroachment on State-owned land by the applicant.

No action was necessary with regard to Item F.

ITEM G - Department of Transportation – A request for approval of and signatures on three (3) permanent easements granted by Deed and a permanent Loop Detector Agreement for the perpetual maintenance of drainage facilities and inductance loops being installed as part of a private development along the northerly side of Route 138 in the Town of Richmond in conjunction with an approved Physical Alteration Permit Application. Item G was deferred to a future meeting of the State Properties Committee at the request of the Department of Transportation.

The Committee may move to go into Executive Session, pursuant to Rhode Island General Law 42-46-5(a)(5) for the specific purpose of discussion or consideration related to the acquisition or lease of real property for public purpose, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public relating to the following item:

A motion to enter into Executive Session was made by Mr. Griffith and seconded by Ms. Urso.

A roll call vote was taken and the votes were as follows: Mr. Griffith voted "Aye", Ms. Urso voted "Aye" and Chairman Renaud voted "Aye."

After detailed discussions relating to Executive Session Item E1 concluded, a motion to return to the open session of the State

Properties Committee meeting and to seal the Executive Session minutes until such time as said matter is resolved was made by

Mr. Griffith and seconded by Ms. Urso.

Passed Unanimously

Upon returning to open session at 11:15 a.m., the Committee proceeded to vote

relative to Item E1 presented in Executive Session.

ITEM E1 - Department of Transportation - A request was made for approval of and signatures on a Temporary Easement Agreement and authorization to acquire a three (3) year temporary easement (Parcel 1B) necessary for the replacement of East Shore Expressway Bridge #475 and McCormick Bridge #476 in the City of East Providence by virtue of Condemnation Plat 2813. After discussion in Executive Session, a motion to approve was made by Mr. Griffith and seconded by Ms. Urso.

Passed Unanimously

There being no further business to come before the State Properties Committee, the meeting was adjourned at 11:16 a.m. The motion to adjourn was made by Mr. Griffith and seconded by Ms. Urso.

Passed Unanimously

Holly H. Rhodes, Executive Secretary